



**STAFF REPORT  
INFORMATION ONLY**

**120 Bremner Boulevard, Block 7B, Lower Simcoe  
Pedestrian Bridge**

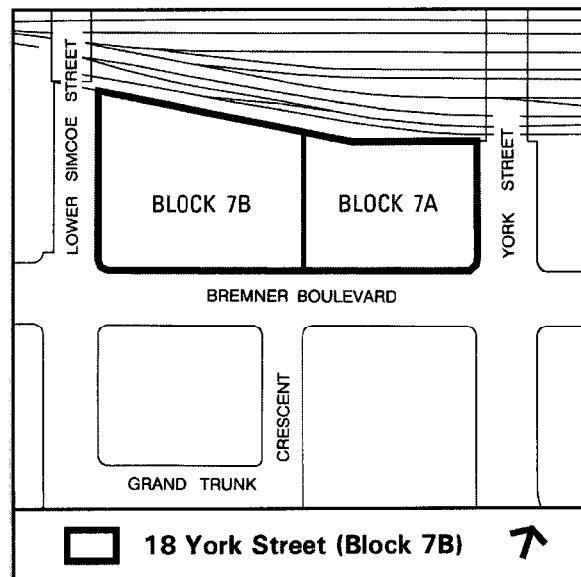
<b>Date:</b>	April 29, 2013
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	10 189641 STE 20 SA

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**SUMMARY**

At its meeting of 9 April 2013, Toronto East York Community Council considered Item TE.23.18 and requested the City Solicitor, after further discussion with the applicant's Solicitor, to submit a report directly to City Council for its meeting on May 7, 2013, with respect to the extent of the indemnification referred to in Recommendation 2(e) of the report (March 19, 2013) from the Director, Community Planning, Toronto and East York District, headed "Directions Report -120 Bremner Boulevard, Block 7B, Lower Simcoe Pedestrian Bridge". <http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-57019.pdf>

BcIMC HOLDCO (2007) INC. ("**Applicant**") proposes to construct and maintain a PATH pedestrian bridge ("**Bridge**") at its sole expense linking the Delta Hotel, currently under construction at 120 Bremner Boulevard, with the SkyWalk. The Bridge is an important link to the PATH system and is supported by policies in the City of Toronto Official Plan as well as the PATH master plan.



## **Financial Impact**

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

At its meeting of 9 April 2013, Toronto East York Community Council considered Item TE.23.18, being the report (March 19, 2013) from the Director, Community Planning, Toronto and East York District, headed "Directions Report -120 Bremner Boulevard, Block 7B, Lower Simcoe Pedestrian Bridge" and requested the City Solicitor to submit a report directly to City Council for its meeting of 7 May 2013. <http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-57019.pdf>

## **COMMENTS**

The purpose of this report is to clarify the reasons for an indemnification clause(s) which is acceptable to the Applicant and which will reasonably protect the City's interests with respect to obtaining third party approvals for the construction of the Bridge.

Releases and indemnities are routinely used by the City of Toronto in agreements with developers. Releases and indemnities are standard provisions in commercial agreements as a tool for minimizing financial risk. A release is a contractual term whereby the developer agrees that it will not bring a legal proceeding or other claim against the City (or against a third party who could claim over against the City). An indemnity is a contractual term whereby the developer agrees that it will be responsible for all claims made by third parties against the City.

In this particular project, the developer will design, construct, maintain and repair the Bridge connecting the new Delta hotel to the existing Skywalk over the rail corridor. If City Council elects to seek third party approvals as may be required to permit the construction and use of the bridge, the City must be protected from claims against the City by the developer and from third parties. This is particularly critical given the City is not the project manager for this Bridge. The City is not designing, constructing, maintaining or repairing the future Bridge. Recognizing the complex ownership and other property interests in the lands over which the Bridge will be constructed, the developer will be responsible for identifying all third parties from whom approval is required. In the event that the developer fails to identify a required third party or a third party consent is

given but a future dispute arises from that third party approval, the City should be fully released and indemnified. While it is in the interests of developers to limit their risks and liabilities, it is not appropriate for the City to assume risks and liabilities related to developer projects, including the proposed pedestrian bridge.

## **CONTACT**

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## **SIGNATURE**



Anna Kinastowski, City Solicitor